

AUGUST 23, 2005 AGENDA REPORTS

Agenda Item No. 4

City of Wichita
City Council Meeting
August 23, 2005

Agenda Report No. 05-0753

TO: Mayor and City Council Members

SUBJECT: Petition to construct a Storm Water Drain in Krug North 2nd Addition
(North of 21st, West of 143rd St. East) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the new Petition.

Background: On August 2, 2005, the City Council approved a Petition to construct a storm water drain in Krug North 2nd Addition. An attempt to award a contract within the budget set by the Petition was not successful. The developer has submitted a new Petition with an increased budget. The signature on the new Petition represents 100% of the improvement district.

Analysis: The project will serve a new residential development located north of 21st Street, west of 143rd Street East.

Financial Considerations: The existing Petition totals \$372,000. The new Petition totals \$468,000. The funding source is special assessments.

Legal Considerations: State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Recommendation/Action: It is recommended that the City Council approve the new Petition and adopt the Resolution.

132019

First Published in the Wichita Eagle on _____, 2005.

RESOLUTION NO. 05-

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION
AUTHORIZING IMPROVING STORM WATER DRAIN NO. 228 (NORTH OF 21ST, WEST
OF 143RD ST. EAST) 468-83793 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO

FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF IMPROVING STORM WATER DRAIN NO. 228 (NORTH OF 21ST, WEST OF 143RD ST. EAST) 468-83793 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. 04-182 adopted on April 13, 2004, and Resolution No. 05-396 adopted on August 2, 2005, are hereby rescinded.

SECTION 2. That it is necessary and in the public interest to improve Storm Water Drain No. 228 (north of 21st, west of 143rd St. East) 468-83793.

SECTION 3. That the cost of said improvements provided for in Section 1 hereof is estimated to be Four Hundred Sixty-Eight Thousand Dollars (\$468,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after August 1, 2005, exclusive of the costs of temporary financing.

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

KRUG NORTH 2ND ADDITION

Lots 1 through 28, Block A
Lots 34 through 37, Block A
Lots 1 through 7, Block C
Lots 14 through 25, Block C
Lots 28 through 48, Block C
Lots 1 through 18, Block D
Lots 1 through 20, Block E

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a fractional basis:

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: Lots 1 through 28, and Lots 34 through 37, Block A, Lots 1 through 7, Lots 14 through 25, and Lots 28 through 48, Block C, Lots 1 through 18, Block D, and Lots 1 through 20, Block E, KRUG NORTH 2ND ADDITION shall each pay 1/110 of the total cost of the improvements.

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq. as amended.

SECTION 9. Be it further resolved that the above-described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

ADOPTED at Wichita, Kansas, _____, 2005.

CARLOS MAYANS, MAYOR

ATTEST:

KAREN SUBLETT, CITY CLERK

(SEAL)

Agenda Item No. 7a

City of Wichita
City Council Meeting
August 23, 2005

Agenda Report No. 05-0754

TO: Mayor and City Council

SUBJECT: Interagency Agreement

INITIATED BY: Wichita Transit

AGENDA: Consent Agenda

Recommendation: Approve the Interagency agreement between Sedgwick County, KS and Wichita Transit.

Background: The Access to Jobs program provides rides to and from work for low-income workers. Since the start of the program in October 2000, Access has provided over 489,799 rides. By entering into an interagency agreement with Sedgwick County, KS, Wichita Transit can provide 1,000 more rides a year to low-income workers. This is the standard contract that we use with vendors.

Analysis: Part of the Access to Jobs grant is to provide half the cost of the rides that agencies offer low-income clients when they are trying to enter or re-enter the work force. The other half of those expenses are borne by the agency.

Financial Considerations: The Access to Jobs rides will be purchased with grants from FTA (50%) and from Sedgwick County, KS (50%). No city funds will be involved in the Access rides.

Legal Consideration: The City's Law Department has reviewed the contract prior to execution as to form.

Recommendations/Actions: It is recommended that the City Council approve the interagency agreement and authorize the necessary signatures.

Agenda Item No. 7b

City of Wichita
City Council Meeting
August 23, 2005

Agenda Report No. 05-0755

TO: Mayor and City Council Members

SUBJECT: Supplemental Agreement for Construction Engineering and Staking in Avalon Park Addition (north of 37th Street North, east of Tyler) (District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Supplemental Agreement.

Background: The City Council approved the storm water drainage improvements in Avalon Park Addition on May 17, 2005. On August 2, 2005 the City approved an Agreement with Professional Engineering Consultants, P.A. (PEC) to design the improvements. The Design Agreement with PEC requires PEC to provide construction engineering and staking services if requested by the City.

Analysis: The proposed Supplemental Agreement between the City and PEC provides for construction engineering and staking for the improvements. Due to the current workload created by previous projects, City crews are not available to perform the construction engineering and staking for this project.

Financial Considerations: Payment to PEC will be on a lump sum basis of \$43,000 and will be paid by special assessments.

Legal Considerations: The Supplemental Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Supplemental Agreement and authorize the necessary signatures.

SUPPLEMENTAL AGREEMENT

TO THE

AGREEMENT FOR PROFESSIONAL SERVICES DATED AUGUST 2, 2005

BETWEEN

THE CITY OF WICHITA, KANSAS

PARTY OF THE FIRST PART, HEREINAFTER CALLED THE

"CITY"

AND

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

PARTY OF THE SECOND PART, HEREINAFTER CALLED THE

"ENGINEER"

WITNESSETH:

WHEREAS, there now exists a Contract (dated August 2, 2005) between the two parties covering engineering services to be provided by the ENGINEER in conjunction with the construction of improvements in AVALON PARK ADDITION (north of 37th Street North, east of Tyler).

WHEREAS, Paragraph IV. B. of the above referenced Contract provides that additional work be performed and additional compensation be paid on the basis of a Supplemental Agreement duly entered into by the parties, and

WHEREAS, it is the desire of both parties that the ENGINEER provide additional services required for the PROJECT and receive additional compensation (as revised herein):

NOW THEREFORE, the parties hereto mutually agree as follows:

A. PROJECT DESCRIPTION

The description of the improvements that the CITY intends to construct and thereafter called the "PROJECT" as stated on page 1 of the above referenced agreement is hereby amended to include the following:

STAKING, AS-BUILT AND CONSTRUCTION ENGINEERING
(as per the City of Wichita Standard Construction Engineering Practices)

STORM WATER DRAIN NO. 264 serving Lots 1 through 52, Block 1; Lots 1 through 33, Block 2, Avalon Park 3rd Addition (north of 37th Street North, east of Tyler) (Project No. 468 84011).

STORM WATER DRAIN NO. 265 serving Lots 1 through 52, Block 1; Lots 1 through 33, Block 2, Avalon Park 3rd Addition; Lots 4, 6 through 8, 12, 21 through 24, 28, 29, 31 through 37, 39 through 45, Block 1; Lots 1, 5, 8, 10 through 13, Block 2; Lots 1 through 5, Block 3; Lots 1 through 3, 5 through 12, 21 through 28, Block 4, Avalon Park (north of 37th Street North, east of Tyler) (Project No. 468 84012).

As-built of all areas included in the project mass grading plan will be the responsibility of the ENGINEER and shall be submitted and sealed by a licensed land surveyor or registered professional engineer. Final elevations for all areas to be graded per plans, provisions or otherwise, including street right-of-way, lots, easements, ponds and reserve areas, shall be within +/- 0.2' of plan call-outs, unless otherwise stated in plans or provisions. ENGINEER will be responsible to coordinate any rework with the contractor, regardless of the number of times necessary to achieve allowable tolerance, and will ensure that a minimum slope is maintained in all drainage easements, especially in such cases where the +/- tolerance could result in a less than desirable percent of grade. Two copies of the project specific mass grading and pond construction plan sheets will be submitted to the project engineer as soon as possible after

completion of final grading, will show original plan and final as-built elevations at all original call-out locations.

B. PAYMENT PROVISIONS

The lump sum fee and the accumulated partial payment limits in Section IV. A. shall be amended as follows:

Payment to the ENGINEER for the performance of the professional services as outlined in this supplemental agreement shall be made on the basis of the lump sum fee specified below:

468 84011	\$18,000.00
468 84012	\$25,000.00
TOTAL	\$43,000.00

C. PROVISIONS OF THE ORIGINAL CONTRACT

The parties hereunto mutually agree that all provisions and requirements of the existing Contract, not specifically modified by this Supplemental Agreement, shall remain in force and effect.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this Supplemental Agreement as of this _____ day of _____, 2005.

BY ACTION OF THE CITY COUNCIL

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary Rebenstorf, Director of Law

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

(Name & Title)

ATTEST:

Agenda Item No. 7c

City of Wichita
City Council Meeting
August 23, 2005

Agenda Report No. 05-0756

TO: Mayor and City Council Members

SUBJECT: Access to Jobs Vendor Agreement

INITIATED BY: Wichita Transit

AGENDA: Consent Agenda

Recommendation: Approve the Access to Jobs Vendor Agreement with Sedgwick County, KS.

Background: The Access to Jobs program provides rides to and from work for low-income workers. Since the start of the program in October 2000, Access to Jobs has provided over 489,799 rides. By entering into a Vendor Agreement with Sedgwick County, KS the program can provide over 4,200 more rides a year to low-income clients in a very cost effective manner. This is the standard contract that we use with vendors.

Analysis: Part of the Accesses to Jobs grant is to provide half the cost of rides that non-profit agencies offer low-income clients when they are trying to enter, or re-enter the work force. The other half of those expenses are borne by the agency.

Financial Considerations: The Access to Jobs rides will be purchased with grants from FTA (50%) and Sedgwick County, KS (50%). No city funds will be involved in the Access to Jobs ride to work program.

Legal Consideration: Vendor Agreement was drafted by the Legal Department.

Recommendations/Actions: It is recommended that the City Council approve the Access to Jobs Vendor Agreement and authorize the necessary signatures.

Agenda Item No. 7d

City of Wichita
City Council Meeting
August 23, 2005

Agenda Report No. 05-0757

TO: Mayor and City Council

SUBJECT: Contract for Worker's Compensation Medical Services

INITIATED BY: Department of Finance

AGENDA: Consent

Recommendation: Approve the contract.

Background: The City of Wichita provides medical treatment for city employees injured on the job. This treatment is coordinated through a contracted medical services provider.

Analysis: Staff began the process to select a medical services provider in the Spring of 2005. A competitive Request for Proposal was prepared and distributed by Purchasing. A total of five responses were received. A Staff Selection Committee was convened, with representatives from the Law, Fire, Police, Finance, City Manager, Park and Public Works departments. The Committee selected the three best responses and scheduled screening and interviews with the firms. On the basis of the detailed interviews, the discounts offered from the Kansas Workers Compensation Fee Schedule, the service locations, the return to work philosophy and the treatment philosophy, the Committee unanimously recommended Prism Occupational Health Network, an entity of Via Christi Health System.

Financial Considerations: The City Workers Compensation Program spends over one million dollars annually on medical treatment; most of those expenditures are made through the medical services contract, although lesser amounts are spend on pharmaceuticals, hospitals and other service providers. The Adopted budget includes a total of \$1.8 million budgeted for medical treatment of City employees injured on the job.

Legal Considerations: The contract was prepared and approved as to form by the Law Department.

Recommendations/Actions: It is recommended the City Council approve the contract with Prism Occupational Health Network for one (1) year with an option to renew for up to four additional one year terms and authorize any necessary signatures.

Agenda Item No. 7e

City of Wichita
City Council Meeting
August 23, 2005

Agenda Report No. 05-0769

TO: Mayor and City Council

SUBJECT: Zebra Mussel Control Study

INITIATED BY: Water & Sewer Department

AGENDA: Consent

Recommendation: Approve the Agreement with CH2M Hill to conduct the Zebra Mussel Control Study.

Background: Zebra mussels are a prolific aquatic pest that have been spreading throughout North American waterways since the 1980s. They typically cause problems with industrial facilities, such as water intake and pumping stations.

Zebra mussels were found in El Dorado Lake in 2003. In the summer of 2004, zebra mussels were reported to have been found in Cheney Reservoir which supplies approximately 60 percent of the City's water.

Analysis: A Request for Proposal seeking professional services to develop a strategy for controlling zebra mussels was sent to prospective consultants, with six (6) consultants responding. After review by the Staff Screening & Selection Committee, two consultants were interviewed. Based on the interviews, the committee recommended that CH2M Hill be selected for the control study.

Financial Considerations: The Agreement with CH2M Hill is for \$42,500. The 2005 revised operating budget has an approved expense of \$50,000 for a zebra mussel control study report.

Legal Considerations: The Agreement has been reviewed and approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

Agenda Item No. 8a

City of Wichita
City Council Meeting
August 23, 2005

Agenda Report No. 05-0758

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for English Country Gardens Addition
(east of Tyler, north of 13th) (District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The City Council approved the water distribution system and paving improvements in English Country Gardens Addition on February 10, 2004.

Analysis: The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements consisting of water and paving in English Country Gardens Addition. Per Administrative Regulation 7a, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Financial Considerations: Payment to Baughman will be on a lump sum basis of \$18,000, and will be paid by special assessments.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

BAUGHMAN COMPANY, P.A.

for

ENGLISH COUNTRY GARDENS ADDITION

THIS AGREEMENT, made this _____ day of _____, 2005, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and BAUGHMAN COMPANY, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

WATER DISTRIBUTION SYSTEM NO. 448 89913 serving Lots 1 through 5, Block B; Lots 1 through 5, Block C; Lots 12 through 16, Block C; Lots 1 through 15, Block D, English Country Gardens Addition (east of Tyler, north of 13th) (Project No. 448 89913).

RECA from the north line of Lot 10, Block D, north to Thurman, on NANTUCKET from Reca, east to the west line of Lot 16, Block D, and on 15TH STREET NORTH from Reca, to the west line of Lot 6, Block B (east of Tyler, north of 13th) (Project No. 472 83936).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in English Country Gardens Addition and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

- A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).
- B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
- C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
- D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.
- E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.
- F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.
- G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.
- I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished

by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

III. THE CITY AGREES:

A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.

B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.

C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.

E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work

required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.

F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 448 89913	\$ 4,200.00
Project No. 472 83936	\$13,800.00
TOTAL	\$18,000.00

B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:

1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.

2. Additional design services not covered by the scope of this agreement.

3. Construction staking, material testing, inspection and administration related to the PROJECT.

4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work, or because the services of the ENGINEER are unsatisfactory; PROVIDED, however, that in any case the ENGINEER shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the provisions of this agreement, but in no case shall payment be more than the ENGINEER'S actual costs plus a fee for profit based upon a fixed percentage of the ENGINEER'S actual costs.

B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY,

provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.

F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.

H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL

Carlos Mayans, Mayor

SEAL:

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary Rebenstorf, Director of Law

BAUGHMAN COMPANY, P.A.

(Name & Title)

ATTEST:

"EXHIBT "A

SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22" x 36" mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

A. PHASE I - PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.
2. Soils and Foundation Investigations. The CITY'S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.
3. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
4. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT's plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 78, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 1/2"), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.
5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.

6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.
7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.
8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
9. Complete and deliver field notes, plan tracings, specifications and estimates to the CITY within the time allotted for the PROJECTS as stipulated below.
 - a. Plan Development for the water improvements by October 17, 2005. (Project No. 448 89913).
 - b. Plan Development for the paving improvements by October 31, 2005. (Project No. 472 83936).

Agenda Item No. 8b

City of Wichita
City Council Meeting
August 23, 2005

Agenda Report No. 05-0759

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for Auburn Hills 15th Addition (north of Kellogg, west of 135th Street West) (District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The City Council approved the paving improvements in Auburn Hills 15th Addition on March 16, 2004.

Analysis: The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements consisting of paving in Auburn Hills 15th

Addition. Per Administrative Regulation 7a, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Financial Considerations: Payment to Baughman will be on a lump sum basis of \$13,500, and will be paid by special assessments.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

BAUGHMAN COMPANY, P.A.

for

AUBURN HILLS 15TH ADDITION

THIS AGREEMENT, made this _____ day of _____, 2005, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and BAUGHMAN COMPANY, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

FRONTAGE ROAD ON KELLOGG from 135th Street West to the west line of Lot 51, Block B, Auburn Hills 15th Addition (north of Kellogg, west of 135th Street West) (Project No. 472 83962).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in Auburn Hills 15th Addition and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).

B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.

C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.

D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.

F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.

H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.

I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$5,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

III. THE CITY AGREES:

A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.

B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.

C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.

E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.

F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 472 83962	\$13,500.00
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B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:

1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
2. Additional design services not covered by the scope of this agreement.
3. Construction staking, material testing, inspection and administration related to the PROJECT.
4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work, or because the services of the ENGINEER are unsatisfactory; PROVIDED, however, that in any case the ENGINEER shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the provisions of this agreement, but in no case shall payment be more than the ENGINEER'S actual costs plus a fee for profit based upon a fixed percentage of the ENGINEER'S actual costs.
- B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.
- C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.
- D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.
- E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.
- F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.
- G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.
- H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL

Carlos Mayans, Mayor

SEAL:

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary Rebenstorf, Director of Law

BAUGHMAN COMPANY, P.A.

(Name & Title)

ATTEST:

“EXHIBIT “A

SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22” x 36” mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

A. PHASE I - PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.
2. Soils and Foundation Investigations. The CITY'S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.
3. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
4. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT's plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 78, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 1/2"), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.
5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.
6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.

7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.
8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
9. Complete and deliver field notes, plan tracings, specifications and estimates to the CITY within the time allotted for the PROJECTS as stipulated below.
 - a. Plan Development for the paving improvements by September 19, 2005.
(Project No. 472 83962.

Agenda Item No. 8c

City of Wichita
City Council Meeting
August 23, 2005

Agenda Report No. 05-0760

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for Rio Vista Estates 4th Addition (north of 61st Street North, west of MacArthur) (District VI)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The City Council approved the water distribution system, sanitary sewer, and paving improvements in Rio Vista Estates 4th Addition on June 15, 2004.

Analysis: The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements consisting of water, sanitary sewer, and paving in Rio Vista Estates 4th Addition. Per Administrative Regulation 7a, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Financial Considerations: Payment to Baughman will be on a lump sum basis of \$66,800, and will be paid by special assessments.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

BAUGHMAN COMPANY, P.A.

for

RIO VISTA ESTATES 4TH ADDITION

THIS AGREEMENT, made this _____ day of _____, 2005, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and BAUGHMAN COMPANY, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

WATER DISTRIBUTION SYSTEM NO. 448 89981 serving Lots 1 through 18, Block A; Lots 1 through 18, Block B; Lots 1 through 9, Block C; Lots 1 through 8, Block D; Lots 1 through 11, Block E, Rio Vista Estates 4th Addition (north of 61st Street North, west of Meridian) (Project No. 448 89981).

LATERAL 1, MAIN 15, SANITARY SEWER NO. 23 serving Lots 1 through 18, Block A; Lots 1 through 18, Block B; Lots 1 through 9, Block C; Lots 1 through 8, Block D; Lots 1 through 11, Block E, Rio Vista Estates 4th Addition (north of 61st Street North, west of Meridian) (Project No. 468 83842).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in Rio Vista Estates 4th Addition and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).

B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.

- C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
- D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.
- E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.
- F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.
- G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.
- I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.
- J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for

bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

III. THE CITY AGREES:

A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.

B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.

C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.

E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.

F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 448 89981	\$ 10,400.00
Project No. 468 83842	\$ 17,200.00
TOTAL	\$ 27,600.00

B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:

1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.

2. Additional design services not covered by the scope of this agreement.

3. Construction staking, material testing, inspection and administration related to the PROJECT.

4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work, or because the services of the ENGINEER are unsatisfactory; PROVIDED, however, that in any case the ENGINEER shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the provisions of this agreement, but in no case shall payment be more than the ENGINEER'S actual costs plus a fee for profit based upon a fixed percentage of the ENGINEER'S actual costs.

B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.

F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.

H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL

Carlos Mayans, Mayor

SEAL:

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary Rebenstorf, Director of Law

BAUGHMAN COMPANY, P.A.

(Name & Title)

ATTEST:

“EXHIBT “A

SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22” x 36” mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

A. PHASE I - PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.

2. Soils and Foundation Investigations. The CITY'S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.
3. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
4. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT's plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 78, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 1/2"), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.
5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.
6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.
7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.
8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
9. Complete and deliver field notes, plan tracings, specifications and estimates to the CITY within the time allotted for the PROJECTS as stipulated below.
 - a. Plan Development for the water improvements by September 19, 2005.
(Project No. 448 89981).

b. Plan Development for the sewer improvements by September 19, 2005.
(Project No. 468 83842).

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

BAUGHMAN COMPANY, P.A.

for

RIO VISTA ESTATES 4TH ADDITION

THIS AGREEMENT, made this _____ day of _____, 2005, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and BAUGHMAN COMPANY, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

EDWARDS from the south line of the plat, north to the south line of West 62nd Street North; on RIO VISTA from the east line of Edwards, east to the east line of the plat; on RICHMOND from the north line of Rio Vista, north to the north line of the plat; and on WEST 62ND STREET NORTH from the west line of the plat, east to the west line of Richmond (north of 61st Street North, west of Meridian) (Project No. 472 84056).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

II. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in Rio Vista Estates 4th Addition and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

L. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).

M. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.

N. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.

O. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

P. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.

Q. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

R. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.

S. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.

T. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

U. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for

bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

V. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

III. THE CITY AGREES:

G. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.

H. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.

I. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

J. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.

L. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

VI. PAYMENT PROVISIONS

C. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 472 84056	\$39,200.00
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D. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:

5. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.

6. Additional design services not covered by the scope of this agreement.

7. Construction staking, material testing, inspection and administration related to the PROJECT.

8. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

VII. THE PARTIES HERETO MUTUALLY AGREE:

I. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work, or because the services of the ENGINEER are unsatisfactory; PROVIDED, however, that in any case the ENGINEER shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the provisions of this agreement, but in no case shall payment be more than the ENGINEER'S actual costs plus a fee for profit based upon a fixed percentage of the ENGINEER'S actual costs.

J. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

K. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

L. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

M. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.

N. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

O. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.

P. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL

Carlos Mayans, Mayor

SEAL:

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary Rebenstorf, Director of Law

BAUGHMAN COMPANY, P.A.

(Name & Title)

ATTEST:

“EXHIBT “A

SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22” x 36” mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

B. PHASE I - PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

6. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.

7. Soils and Foundation Investigations. The CITY'S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.

8. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.

9. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT's plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 78, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 1/2"), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.

10. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.

6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.

10. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.

11. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.

12. Complete and deliver field notes, plan tracings, specifications and estimates to the CITY within the time allotted for the PROJECTS as stipulated below.

c. Plan Development for the paving improvements by October 3, 2005.
(Project No. 472 84056).

Agenda Item No. 9

City of Wichita
City Council Meeting
August 23, 2005

Agenda Report No. 05-0761

TO: Mayor and City Council Members

SUBJECT: Change Order: Murdock Bridge over the Little Arkansas River (District VI)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Change Order.

Background: On June 22, 2004, the City Council approved a project to improve the Murdock Bridge over the Little Arkansas River. The bridge was rehabilitated, rather than replaced, in order to preserve the historical integrity of the structure. As the work progressed, conditions were encountered that were not anticipated when the project was designed. After the deck was removed and beam repairs began, it was determined that the extent of repairs needed was much greater than planned. The amount of beams that needed repair increased. In addition, the amount of sidewalk slab repairs was greater than expected.

Analysis: A Change Order has been prepared for the additional work. Funding is available within the project budget.

Financial Considerations: The total cost of the additional work is \$28,788 with \$5,758 by General Obligation Bonds and \$23,030 by Federal Grants administered by the Kansas Department of Transportation. The original contract is \$1,387,116. This Change Order plus a previous change order represents 6.6% of the original contract amount.

Legal Considerations: The Law Department has approved the Change Order as to legal form. The Change Order amount is within 25% of the construction contract cost limit set by the City Council policy.

Recommendation/Action: It is recommended that the City Council approve the Change Order and authorize the necessary signatures.

June 8, 2005
PUBLIC WORKS-ENGINEERING CHANGE ORDER

To: Wildcat Construction Co., Inc. Project: Murdock Bridge over Little Arkansas River
Change Order No.: 2 Project No.: 87N-0304-01/472-83895/448-89900
Purchase Order No.: 400967 OCA No.: 715698/636126
CHARGE TO OCA No.: 715698 PPN: 244114/773522

Please perform the following extra work at a cost not to exceed \$28,787.50

The structural integrity of the sidewalk and the bridge beams required more repairs than originally anticipated. As this is the rehabilitation of an existing bridge as opposed to a total reconstruction, and efforts to maintain the historical integrity of the bridge while providing a durable, long-lasting structure, the final quantities are as follows. The completion date extended to June 10, 2005, for conflicting work on the emergency waterline replacement.

ADD:

Bridge Boating Signs – 8 ea @ \$350.00/ea = \$ 2,800.00

OVERRUN:

Sidewalk Slab Repair (Underside) – 241.5 sf @ \$85.00/sf = \$ 20,527.50

Epoxy Resin Crack Repair – 140 lf @ \$35.00/lf = \$ 4,900.00

Concrete Beam Repair – 48 lf @ \$200.00/lf = \$ 9,600.00

Drill and Grout – 70 ea @ \$15.00/ea = \$ 1,050.00

UNDERRUN:

Substructure Concrete Repair (Type 1) – (20) sf @ \$150.00/sf = (\$ 3,000.00)

Sidewalk Expansion Joint – (47) lf @ \$110.00/lf = (\$ 5,170.00)

Bridge Backwall Protection System – (96) sy @ \$20.00/sy = (\$ 1,920.00)

Total \$28,787.50

Recommended By:

Approved:

Larry Schaller, P.E. Date
Construction Engineer

Jim Armour, P.E. Date
City Engineer

Approved:

Approved:

Contractor Date

Chris Carrier, P.E. Date
Director of Public Works

Approved as to Form: By Order of the City Council:

Gary Rebenstorf Date
Date
Director of Law

Carlos Mayans
Mayor

Approved:

Attest: _____

City Clerk

Benny P. Tarverdi
KDOT Metro Engineer

Date

Agenda Item No. 10

City of Wichita
City Council Meeting
August 23, 2005

Agenda Report No. 05-0762

TO: Mayor and City Council

SUBJECT: Purchase Option (Northpark Residences Apartments, L.P.) (District II)

INITIATED BY: City Manager's Office

AGENDA: Consent

Recommendation: Authorize a Quitclaim Deed and the Termination of Lease Agreement with delivery contingent upon satisfaction of conditions.

Background: On April 20, 1993, City Council approved the issuance of \$7.6 million in Industrial Revenue Refunding Bonds, Series II A&B, 1993, to redeem the outstanding principal amount of the 1985 Series VI bonds. The 1985 Bonds were used to finance the construction of 252 living units of the Comotara Retirement Center as well as five on-site parking garages and two special-use buildings. Comotara Retirement Center is located in the area of 29th Street North and Rock Road in far northeast Wichita.

Under the provisions of Sections 11.1 of the Lease Agreement for the bond series, Northpark Residences Apartments, L.P. (as successor to Park North Limited Partnership, the original tenant) has the option, if all outstanding bonds have been paid, to purchase the facility from the City of Wichita for the sum of \$100. On August 9, 2005, staff received notice from J. Worthen DeYoung, Attorney for Northpark Residences Apartments, L.P., ("Tenant") informing the City of Wichita of the company's intention to exercise its purchase option.

Analysis: Under the terms of the Lease, the City is required to convey the property securing the IRB issue to the Tenant, once the Tenant has paid the purchase price and other considerations as listed under the provisions of the Lease Agreement, including the payment of all outstanding bonds.

Financial Considerations: The purchase price is \$100 and other considerations as listed under the provision of the Lease Agreement and Indenture to redeem and retire or defease all outstanding bonds. This price includes without limitations, principal, interest, redemption

premium, and all other expenses of redemption, and trustee fees, but after the deduction of any amounts described and provided for in the Lease Agreement and available for such redemption.

Legal Considerations: The City is contractually bound to convey the IRB Project property to the Tenant by quit claim deed, once all the conditions established in the Lease and Indenture have been met. The City Attorney's Office has approved the form of the attached Resolution to authorize the execution of the Quit Claim Deed and the Termination of Lease Agreement (each in substantially the form attached to the Resolution), with their delivery contingent upon satisfaction of conditions under the Lease and Indenture, including defeasance or redemption of all Bonds.

Recommendations/Actions: It is recommended that City Council adopt the Resolution, authorizing the Quit Claim Deed and the Termination of Lease Agreement, with delivery contingent upon satisfaction of all necessary conditions, and authorize necessary signatures.

Agenda Item No. 11

City of Wichita
City Council Meeting
August 23, 2005

Agenda Report No. 05-0763

TO: Mayor and City Council

SUBJECT: Wichita Employees' Retirement and Police & Fire Retirement Systems'
2004 Comprehensive Annual Financial Report

INITIATED BY: Department of Finance

AGENDA: Consent

Recommendation: Receive and file the report.

Background: The Government Finance Officers Association (GFOA) establishes financial reporting standards for local and state governments. Those governments have the opportunity to submit their financial documents for review and compliance with the standards. Certificates of Achievement for Excellence in Financial Reporting are awarded to those entities meeting the standards. The Pension Management staff completed the first Comprehensive Annual Financial Report (CAFR) for the Wichita Retirement Systems for the year ended December 31, 1998. The System was first awarded a Certificate of Achievement for Excellence in Financial Reporting for their CAFR for the year ended December 31, 1999 and to date has received five consecutive awards.

Analysis: The Pension Management staff prepared the 2004 CAFR for the Wichita Retirement Systems (Wichita Employees' Retirement System and the Police & Fire Retirement System) and

submitted it to GFOA for Certificate of Achievement consideration. Considerable time and effort was involved in the document preparation.

The Wichita Employees' Retirement Board and the Police & Fire Retirement Board have reviewed and approved the 2004 CAFR.

Financial Considerations: None

Legal Considerations: None

Recommendation/Actions: It is recommended that the City Council receive and file the Wichita Retirement Systems' 2004 Comprehensive Annual Financial Report.

Agenda Item No. 12a

CITY OF WICHITA
City Council Meeting
August 23, 2005

Agenda Report No. 05-0764

TO: Mayor and City Council Members

SUBJECT: Partial Acquisition of 705 North 119th Street West for a Traffic Signal at Central & 119th St. as part of the 2004-2005 Traffic Signal Program (District IV)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On May 18, 2004, City Council approved a 2004-2005 Traffic Signalization Program in Districts I, II, IV & V to allow for the installation of traffic signals at major intersections and signalize school crosswalks. The intersection of West Central and 119th Street North is one of seven intersections. The partial acquisition requires a 20 foot strip of land along Central Avenue (the south property line) and a triangular taking at the hard corner to have the minimum right-of-way required for visibility per the Kansas Department of Transportation Standards.

Analysis: The City had the property appraised in July 2005. Based on appraised value, an offer of \$73,655.00 for the land and damages including but not limited to trees, fence and septic system has been accepted by the owner.

Financial Considerations: The funding source for the City share is General Obligation Bonds. A budget of \$73,955 is requested. This includes \$73,655 for the acquisition, and \$300 for losing costs and title insurance.

Legal Considerations: The Law Department has approved the contracts as to form.

Recommendation/Action: It is recommended that the City Council: 1) Approve the budget; 2) Approve the Real Estate Purchase Contracts; and 3) Authorize all necessary signatures.

Agenda Item No. 12b

CITY OF WICHITA
City Council Meeting
August 23, 2005

Agenda Report No. 05-0765

TO: Mayor and City Council Members

SUBJECT: Acquisition of 3239 North Hillside for the Wichita Animal Care Campus
(District I)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On May 18, 2004, the City Council approved a Memorandum of Understanding between the City and the Kansas Humane Society to investigate the development of an Animal Care Campus on City owned land south of K-96 and west of Hillside. The City owned parcel contains about 55 acres. The site is located approximately 600 feet west of Hillside and is accessed by a drive off Hillside, which serves the existing City Animal Shelter. The southern portion of the City site is a former City Construction and Demolition landfill. This portion of the site will need to be excavated before it can be used for building construction. In the course of the design of the campus, it was learned that the property at 3239 North Hillside was being offered for sale. The property was listed for \$750,000. This property has 4.83 acres and is developed with a 36,115 square foot manufacturing facility. The site has 255 feet of frontage on Hillside.

Analysis: The property owner has agreed to sell the parcel to the City for \$640,000. The acquisition of this parcel provides frontage on Hillside and opens the entire site up for visibility from Hillside. In addition, it eliminates the necessity of removing the demolition debris from the City site estimated between \$400,000 and \$500,000.

Financial Considerations: A budget of \$720,000 is requested for the acquisition. This includes \$640,000 for the acquisition, \$75,000 for demolition and \$5,000 for closing costs. The approved

2005-2014 Capital Improvement Program (CIP) includes \$3 million in 2006 for the construction of the Animal Care Campus. Seven hundred twenty thousand dollars (\$720,000) is being initiated now to pay for acquisition and associated costs. As this was an unplanned expense to the project, this money will be reallocated later when the CIP can be reevaluated.

Legal Considerations: The Law Department has approved the contract as to form.

Recommendation/Action: It is recommended that the City Council approve the budget, approve the real estate purchase contract, approve the Capital Improvement Project Authorization, and authorize necessary signatures.

Agenda Item No. 13

CITY OF WICHITA
City Council Meeting

August 23, 2005

Agenda Report No. 05-0766

TO: Mayor and City Council Members

SUBJECT: Transfer of Belmont Avenue Entrance Arches from the City to the Belmont Place Homeowners Association

INITIATED BY: Law Department

AGENDA: Consent

Recommendation: Authorize the transfer of ownership to the two entrance arches at the intersections of Belmont Avenue with Douglas and Central Avenues to the Belmont Place Homeowners Association.

Background: On August 27, 1991, the City Council approved an agreement to permit improvements to be made to the Belmont arches and period, street lights along Belmont Avenue from Douglas to Central Avenues. The costs of these improvements were paid by special assessments against the residential properties along Belmont Avenue from Douglas to Central. Over the past 14 years there has been some deterioration to the stone structure of both arches. For both safety and aesthetic reasons, it is necessary to do substantial work to repair the arches.

Analysis: When the City agreed in 1991 to do work on the arches it was on the basis that the City at large would incur no financial obligation for the work or the continued maintenance of the arches. The agreement signed at that time anticipated that the City would convey its interest in the arches to the Homeowners Association. The special assessments for the initial project work have been paid and there is now no reason for the City to continue to hold title to the

arches. The arches may continue to be in place on City right of way through the issuance of a minor street permit in the name of the Homeowners Association.

Financial Considerations: There is no cost to the City in connection with this transfer.

Legal Considerations: The governing body has the authority to transfer title to these improvements to the Homeowners Association.

Recommendations/Actions: Authorize the transfer of ownership to the two entrance arches at the intersections of Belmont Avenue with Douglas and Central Avenues to the Belmont Place Homeowners Association

Agenda Item No. 14

CITY OF WICHITA
City Council Meeting
August 23, 2005

Agenda Report No. 05-0767

TO: Mayor and City Council Members

SUBJECT: Leasing of Antenna Site on Water Tower at 3901 East 18th Street to New Cingular Wireless (District I)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the lease.

Background: New Cingular Wireless has approached the City about placing an antenna array on the City's water tower at 3901 East 18th Street. The site is located in the southern portion of the Wichita State campus. The Water Department has agreed to allow the installation. The lessee is responsible for obtaining the appropriate approvals and conditional use permits to allow the facility to be built.

Analysis: The lease agreement provides for a five-year term with four five-year options. Annual base rental is \$18,000 per year with a 15% increase during each option period. If the facility is expanded to a full site, the base rent will increase to an \$21,000 per year. The lessee agrees not to interfere with the public purpose of the area and to make sure the leased area is secure. The lessee is responsible for any personal or real property taxes associated with the facility.

Financial Considerations: The City will receive rent revenues as described above. The lessee shall be responsible for all costs of installation, operation and maintenance of the facility and the leased land upon which it is constructed.

Legal Considerations: The Law Department has approved the lease as to form.

Recommendation/Action: It is recommended that the City Council; Approve the Lease and authorize all necessary signatures.

Agenda Item No. 19

City of Wichita
City Council Meeting
August 23, 2005

Agenda Report 05-0768

TO: Mayor and City Council

SUBJECT: Payment of Judgment

INITIATED BY: Law Department

AGENDA: Consent

Recommendation: Authorize payment of \$215,030 in satisfaction of a personal injury judgment against the city rising from a motor vehicle accident.

Background: A lawsuit against the city, Garrett v City, results from an accident between a Wichita Police Department vehicle and a pedestrian at or near the 1000 block of Edgemoor Street. The accident occurred on May 1, 2003. Claimant alleges that the officer was negligent. The claimant suffered extensive leg fractures and other minor injuries.

Analysis: On July 5, 2005 a jury in Sedgwick County District Court rendered a verdict in the case, finding plaintiff 40% negligent and the city, through the acts of its employee officer, 60% at fault. Deducting plaintiff's portion of the fault leaves her with an award against the city of \$215,030.

Financial Considerations: Funding for this settlement payment is from the Tort Claims Fund.

Legal Considerations: Payment of the judgment is mandatory since it is an Order of the Court.

Recommendations/Actions: Authorize total payment of \$215,030 in full satisfaction for the judgment rendered in this matter.

Agenda Item No. 20

City of Wichita
City Council Meeting

August 23, 2005

Agenda Report No. 05-0770

TO: Mayor and City Council

SUBJECT: Gilbert and Mosley TriState/Harcros Source Remediation Project.
(District III)

INITIATED BY: Environmental Services

AGENDA: Consent

Recommendation: Authorize the selection of a team (engineer/contractor) to design, construct and operate the remediation project for the Gilbert and Mosley TriState/Harcros Source Area.

Background: The City has an agreement with the KDHE under which the City is to conduct source area cleanup on several sites in the remediation area called Gilbert and Mosely. These remediation projects address localized areas of soil and groundwater contamination. The TriState/Harcros Source area is one of these sites. The City has completed initial investigation of this area and has proposed a phased remediation plan that has been approved by KDHE.

Analysis: It is time for Phase I of the City's remediation plan for the TriState/Harcros Source area to be implemented. Staff recommends this project for design/build consideration as the technical consulting company would provide a design with construction and turnkey operations. One contract would be used to acquire the needed technical environmental and engineering services to design, construct and operate the remediation equipment in accordance with KDHE requirements. By using the design/build approach, the technical consultant and contractor can work together to develop the most effective remediation design as needed for existing hydrogeology and subsurface soils. This will allow an expedited schedule for construction and implementation. A negotiated contract with the recommended firm will be returned to City Council for approval.

Financial Considerations: It is estimated that this project will cost approximately \$3,000,000. Funding for this project is provided by General Obligation bonds to be repaid by the Gilbert and Mosley TIF.

Legal Considerations: Under the City's procedure for "design-build" established by Charter Ordinance No. 111, the City Council may approve the project as a "design-build" project before requests for proposals are sent out.

Recommendations/Actions: It is recommended that the City Council approve the expenditures; approve project as a design/build; authorize staff to seek proposals according to City administrative regulations, adopt the resolution, and authorize appropriate signatures.

Agenda Item No. 22

City of Wichita
City Council Meeting
August 23, 2005

Agenda Report No. 05-0771

TO: Mayor and City Council

SUBJECT: DR2005-00023 – Initiate application for zone change from “LI” Limited Industrial to “CBD” Central Business District for area generally located between St. Francis Ave., William St., BNSF railroad right-of-way one-half block east of Commerce St. and Kellogg. (District I)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendations: Not applicable.

MAPD Staff Recommendations: Wichita City Council should initiate a general revision of the zoning in the area shown on Exhibit “A” to “CBD” Central Business District.

DAB Recommendations: Not applicable.

Background: The Arena Neighborhood Redevelopment Plan Area includes an area currently zoned “LI” Limited Industrial. The “LI” zoning district precludes residential use and is not designed to allow the uses typically found in the vicinity of a major cultural facility such as an arena. “LI” zoning is intended for industrial use and complimentary commercial uses. The “LI” zoned area is bounded by St. Francis Ave. on the west, William St. on the north, the BNSF railroad right-of-way located one-half block east of Commerce St. on the east and the Kellogg freeway and off-ramp on the south.

The Unified Zoning Code provides that the “Governing Body may initiate a zone change request with or without an application from the property owners” (Unified Zoning Code Art. V, Sec. V-A.1). All notice requirements except written (mailed) notice to individual property owners apply for general revisions of the Unified Zoning Map processed under this provision.

Analysis: “CBD” Central Business District zoning offers several improvements to lay the groundwork for implementation of the Arena Neighborhood Redevelopment Plan Area. First, it eliminates some potential Conditional Uses that are incompatible intensive mix of uses desired in a downtown core area and in the vicinity of major cultural facilities. Examples of industrial, manufacturing and extractive uses prohibited by right or not allowed as a Conditional Use in “CBD” are gas and fuel storage, freight terminal, and wrecking/salvage yard.

Instead, “CBD” allows all residential uses except manufactured housing. Current trends to redevelop lofts and office buildings with residential use would be a use by right.

“CBD” also removes the off-site parking requirements to allow flexibility in developing shared parking facilities to serve multiple parking needs, eliminates building setbacks to allow zero-lot setbacks in character with traditional downtown development and compatible with the trends in loft/apartment uses, eliminates height restrictions to allow higher intensity use that reinforces the viability and liveliness of the downtown area.

Financial Considerations: None.

Legal Considerations: The item has been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Direct MAPD to initiate a general revision to the Unified Zoning Code per Exhibit “A”.

Agenda Item No. 23

City of Wichita
City Council Meeting
August 23, 2005

Agenda Report No. 05-0772

TO: Mayor and City Council

SUBJECT: DR2005-00024 – Initiate application for zone change from “LI” Limited Industrial to “CBD” Central Business District for area generally located between 2nd Street North, I-135, approx. 200 feet south of Douglas Ave. between I-135 and Hydraulic Ave., Hydraulic Ave., Waterman St., BNSF railroad right-of-way, Douglas Ave. and Washington Ave. (District I)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendations: Not applicable.

MAPD Staff Recommendations: Wichita City Council should initiate a general revision of the zoning in the area shown on Exhibit “A” to “CBD” Central Business District.

DAB Recommendations: Not applicable.

Background: This area is currently zoned “LI” Limited Industrial, but is located at the fringe of the expanding downtown core and Old Town Overlay District where demand is growing for mixed use development offering a place for both living and working. Typical uses include loft apartments, restaurants, theaters, offices, and retail uses. The “LI” zoning district precludes residential use, which eliminates mixed use development seeking to expand within the area. Further, “LI” zoning is intended for industrial use and complimentary commercial uses located that are incompatible with the mixed use development concept. The “LI” zoned area is bounded on the north by 2nd Street North, on the east by I-135, on the south by the row of lots south of Douglas Ave. between I-135 extending west to Hydraulic Ave., then bounded on the east by Hydraulic Ave., bounded on the south by Waterman St., on the west by the BNSF railroad right-of-way, then bounded on the north by Douglas Ave. and bounded on the west by Washington Ave. to 2nd Street North.

The Unified Zoning Code provides that the “Governing Body may initiate a zone change request with or without an application from the property owners” (Unified Zoning Code Art. V, Sec. V-A.1). All notice requirements except written (mailed) notice to individual property owners apply for general revisions of the Unified Zoning Map processed under this provision.

Analysis: “CBD” Central Business District zoning allows all residential uses except manufactured housing. Current trends to redevelop lofts and office buildings with residential use would become a use by right, which would encourage the expansion of the urban core with mixed use development from its current edge in the Old Town Overlay District eastward to I-135. Also, “CBD” eliminates some potential Conditional Uses of the “LI” district that are incompatible with the intensive mix of uses desired in a downtown core area. Examples of industrial, manufacturing and extractive uses prohibited by right or not allowed as a Conditional Use in “CBD” are gas and fuel storage, freight terminal, and wrecking/salvage yard.

“CBD” also removes the off-site parking requirements to allow flexibility in developing shared parking facilities to serve multiple parking needs, eliminates building setbacks to allow zero-lot setbacks in character with traditional downtown development and compatible with the trends in loft/apartment uses, eliminates height restrictions to allow higher intensity use that reinforces the viability and liveliness of the downtown area.

Financial Considerations: None.

Legal Considerations: The item has been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Direct MAPD to initiate a general revision to the Unified Zoning Code per Exhibit “A”.